

# EXHIBIT D

February 12, 2021

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**VIA E-MAIL**

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Re: Scorpcast, LLC dba HaulStars v. Boutique Media, et al., 2:20-cv-00193-JRG

Dear Mr. Hardt:

I write on behalf of all Defendants in the above-captioned consolidated action. It appears from recent correspondence that there may be a fundamental disagreement between the parties as to the scope of what is at issue in this case. In your Complaints and in your Infringement Contentions, the only website identified, described, and/or charted is Pornhub. It has thus been our understanding ever since this case started that the case was and is solely about Pornhub. While Scorpcast included placeholder language in a footnote of its Contentions about “other hub sites,” Scorpcast never sought leave to amend its Infringement Contentions to actually identify or chart any such sites, as the Local Patent Rules require. Similarly, the deadline for amending the pleadings has passed and Scorpcast did not amend any of its Complaints to identify any other sites besides Pornhub (although Scorpcast has sought to add allegations about MG Freesites, the operator of Pornhub). In sum, over the course of more than seven months of litigation, Scorpcast has only accused and has only put Defendants on notice of allegations against one website, Pornhub.<sup>1</sup>

But, and to our surprise, Scorpcast’s recent letters to Defendants suggest that Scorpcast may think this case and Scorpcast’s current Infringement Contentions encompass and accuse more than Pornhub. Is that Scorpcast’s position? If it is, what websites does Scorpcast think are accused in this case and what is your basis for that position? Similarly, is Scorpcast planning to seek leave to amend its Infringement Contentions to include any such websites? And if so, by when and what is the alleged good cause for doing so at this time? Please let us have Scorpcast’s answers to these questions as soon as possible so that we can determine if there is a dispute that requires the Court’s

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<sup>1</sup> As explained in separate correspondence (e.g., J. Sharret 1/19/2021 and 2/10/2021 Letters), Scorpcast’s Infringement Contentions against Pornhub are deficient and this letter should not be read to suggest anything to the contrary.

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attention. If Scorpcast's position is that its current Infringement Contentions cover sites other than Pornhub, Defendants disagree.

Given this issue's importance, we look forward to your prompt response to our questions so that we can address this issue as necessary during the meet and confer we have requested for February 16 or 17 to discuss your deficient Infringement Contentions (*see* J. Sharret 2/10/2021 Letter). Again, please let us know when you are available on those dates.

Sincerely,

*Christopher Gerson*

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